

JUDGE'S COPY

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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CHARLES ISELEY,

Plaintiff

v.

W. CONWAY BUSHEY, et al.,

Defendants

No. 1:00-CV-00577
(Judge Kane)

FILED
HARRISBURG, PA

JUN 09 2000

MOTION FOR ENLARGEMENT OF TIME

MARY E. D'ANDREA, CLERK
Per _____
Deputy Clerk

Defendants, by their attorneys, hereby request the Court for an enlargement of time to file a brief in response to plaintiff's "Motion for Adequate Access to the Courts". The defendants state the following in support of their motion.

1. Pro se plaintiff Charles Iseley filed a complaint in the United States District Court for the Eastern District of Pennsylvania on October 29, 1999. The case was transferred to the United States District Court for the Middle District of Pennsylvania, by order dated February 23, 2000.

2. Defendants answered the complaint on May 30, 2000.

3. Prior to defendants' answering the complaint, undersigned counsel received a letter from plaintiff advising counsel that he had been transferred from the State Correctional Institution at Mahanoy ("SCI- Mahanoy") to the State Correctional Institution at Coal Township ("SCI-Coal Township") and claimed that he had not received his excess property that contained his legal materials. Plaintiff alleged that these materials were being held by SCI-Mahanoy in retaliation for exercising his constitutional rights. (See letter dated May 8, 2000 attached as Exhibit "A").

4. Immediately, undersigned counsel contacted Carol Dotter, Assistant to the Superintendent and litigation coordinator at SCI-Mahanoy, and requested that she verify the status of Iseley's property held in storage at SCI-Mahanoy. (See Declaration of Dotter dated June 8, 2000, ¶ 10, attached as Exhibit "B").

5. Ms. Dotter contacted undersigned counsel on May 8, 2000, informing her that Iseley had approximately ten boxes in storage, and that the boxes were not shipped to SCI-Coal Township because Iseley had not paid to have them shipped. (See Dotter Declaration ¶ 11, 12, attached Exhibit "B")

6. On May 9, 2000, counsel notified Iseley that the boxes were held in storage at SCI-Mahanoy because at the time of his transfer he had inadequate funds in his inmate account to mail the boxes. Moreover, Iseley was informed that if he wanted to have the boxes mailed to him at SCI-Coal Township, he must send a cash slip to Ms. Dotter. (See letter dated May 9, 2000, attached as Exhibit "C").

7. Counsel received a letter from Iseley dated May 16, 2000, acknowledging receipt of the May 9, 2000 letter, and claiming that he completed a cash slip prior to his transfer from SCI-Mahanoy to SCI-Coal Township. Iseley informed counsel that he would sent another cash slip to Dotter. He further noted that if he did not receive his property by May 22, 2000, he would petition the court to intervene. (See letter dated May 16, 2000, attached as Exhibit "D").

8. Undersigned counsel contacted Ms. Dotter numerous times since the May 9, 2000 letter to inquire if she received a cash slip from Iseley. To date, Dotter has not received a cash slip from Iseley. (See Dotter Declaration, ¶ 15 attached as Exhibit "B").

9. On May 22, 2000, Iseley filed the instant motion. The relief sought by Iseley is "an order directing the pertinent defendants to send him his property, including his legal material, forthwith." (See Exhibit E" attached). A response to that motion is due on June 9, 2000.

10. On June 6, 2000, counsel again contacted Ms. Dotter concerning the receipt of Iseley's cash slip. On June 7, 2000, counsel was informed by Dotter that a cash slip dated March 13, 2000 was found under the third of Iseley's eleven boxes of excess property. Ms. Dotter also informed counsel that while Iseley's account had insufficient funds at the time of transfer, his inmate account now contained sufficient funds in order to mail the boxes. (See Dotter Declaration, attached as ¶¶ 16, 17, Exhibit "B").

11. Counsel for defendants directed that Iseley's property be mailed to him as soon as possible. On June 8, Iseley's property was mailed to him. (See Dotter Declaration, ¶ 21, attached as Exhibit "B").

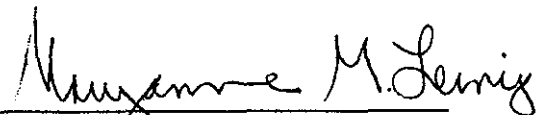
12. On June 9, 2000, counsel sent a letter to Iseley informing him that the boxes containing his excess property were mailed to him and requested that he withdraw the motion as moot. (See letter dated June 9, 2000, attached as Exhibit "F").

13. Within the next several days, Iseley will receive the relief sought in his motion. Therefore, in the interest of judicial efficiency and time, defendants request an enlargement of time to respond to plaintiff's motion. Defendants suggest it is likely that once Iseley receives his property, he will withdraw the motion. If the instant motion is withdrawn, this Court will not have to address the motion or issue an opinion. Accordingly, defendants seek a twenty day enlargement of time to respond to plaintiff's motion.

WHEREFORE, defendants' motion should be granted.

Respectfully submitted,

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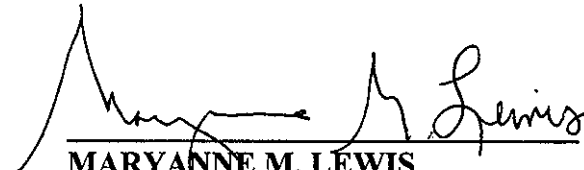
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No. 1:00-CV-00577
(Judge Kane)

CERTIFICATE OF SERVICE

I, Maryanne M. Lewis, Deputy Attorney General, hereby certify that on this date I caused to be served the foregoing Motion for Enlargement of Time, by depositing a copy of the same in the United States mail, postage prepaid, in Harrisburg, PA., addressed to the following:

Charles Iseley, #AM-9320
SCI-Coal Township
1 Kelley Drive
Coal Township, PA 17866


MARYANNE M. LEWIS
DEPUTY ATTORNEY GENERAL

DATE: June 9, 2000